

**IN THE UNITED STATES DISTRICT COURT  
OF THE EASTERN DISTRICT OF TEXAS  
TEXARKANA DIVISION**

<b>CONSTELLATION IP, LLC</b>	§	
<b>Plaintiff</b>	§	
	§	
<b>V.</b>	§	<b>No. 5:07CV132</b>
	§	
<b>THE ALLSTATE CORP., et al.</b>	§	
<b>Defendants</b>	§	

**ORDER FROM SCHEDULING CONFERENCE**

The Court issues the following Order from the December 5, 2007 Scheduling Conference.

The Court's Docket Control Order is filed in conjunction herewith.

**I. Discovery and Case Management Plan**

**A. Discovery Limitations**

Discovery in this action shall be limited to the disclosures provided for in the Docket Control Order together with requests for production, 15 common interrogatories per side, 25 additional interrogatories which may be sent by Plaintiff to each Defendant and by each Defendant to Plaintiff, 30 common requests for admissions per side; 45 requests for admission which may be sent by Plaintiff to each Defendant and by each Defendant to Plaintiff, and 100 hours for depositions of fact witnesses per side (the deposition of each witness shall be limited to a maximum of seven (7) hours, which may be increased by no more than one (1) hour upon agreement of the parties). In addition, Plaintiff may take up to twenty-one (21) hours of 30(b)(6) and twenty-one (21) hours of Rule 30(b)(1) depositions of each Defendant, and the Defendants may take up to twenty-one (21) hours of 30(b)(6) and twenty-one (21) hours of Rule 30(b)(1) depositions of Plaintiff. These limits on 30(b)(1) depositions apply to employees or former employees of a party who are deposed concerning their work for that party.

In addition, expert witnesses may be deposed for a maximum of ten (10) hours per a witness, except that infringement and damages experts who issue reports relating to multiple parties may be deposed for up to five (5) hours per party to which a report pertains, or 10 hours per report, whichever is greater. (For purposes of this paragraph, the Defendants are Blockbuster, Capital One, Continental, Countrywide, E\*Trade, Expedia, Hilton, Match.com, Southwest Airlines and TD Ameritrade, each of which shall be considered a party for purposes of this paragraph). All depositions to be read into evidence or shown in court as part of the parties' case-in-chief shall be edited so as to exclude all unnecessary, repetitious, and irrelevant testimony; only those portions which are relevant to the issues in controversy shall be read into evidence or shown in open court. Parties shall limit total deposition time to no more than one hour per deposition to be read or shown in court.

**B. Duty to Supplement**

After disclosure is made pursuant to the Court's Docket Control Order, each party is under a duty to supplement or correct its disclosures immediately if the party obtains information on the basis of which it knows the information disclosed was either incomplete or incorrect when made, or is no longer complete or true.

**C. Privileged Information**

There is no duty to disclose privileged documents or information. Once the parties have exchanged privilege logs, any party may move the Court for an order compelling the production of any documents or information identified on any other party's privilege log. If the parties have no disputes concerning the privileged documents or information, then the parties shall inform the Court of that fact. Documents created after the filing of this lawsuit need not be logged, and drafts of

expert reports are not discoverable.

## **II. Protective Order**

The parties have not agreed upon a Protective Order. If the parties cannot agree on a proposal, Defendants are directed to file an appropriate motion for entry of a protective order.

## **III. Claim Construction**

### **A. Technical Advisor**

At this time, the Court does not believe a technical advisor will be necessary.

### **B. Claim Construction Hearing**

A claim construction hearing is currently scheduled before the undersigned at 9:00 a.m. on July 2, 2008 at the United States District Court, 500 N. Stateline, Fourth Floor Courtroom, Texarkana Texas. If needed, a technology tutorial may be scheduled before the undersigned on the afternoon of July 1 or the morning of July 2, before the claim construction hearing. At the claim construction hearing, the plaintiff is limited to 2.5 hours and the defendants are limited to 2.5 hours.

## **IV. Other General Rules**

### **A. No Excuses**

A party is not excused from the requirements of this Order or the Court's Docket Control Order because it has not fully completed its investigation of the case or because it challenges the sufficiency of another party's disclosures, or because another party has not made its disclosures. Absent Court order to the contrary, a party is not excused from disclosure because there are pending motions to dismiss, to remand, or to change venue.

### **B. Local Rule CV-7(d)**

The parties are directed to Local Rule CV-7(d) which provides, in part, that "[i]n the event

a party fails to oppose a motion in the manner prescribed herein, the court will assume that the party has no opposition.” Local Rule CV-7(e) provides that a party opposing a motion has **15 days** in which to serve and file supporting documents and briefs, after which the Court will consider the submitted motion for decision.

**IT IS SO ORDERED.**

**SIGNED this 5th day of December, 2007.**

  
CAROLINE M. CRAVEN  
UNITED STATES MAGISTRATE JUDGE